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SUBJECT: DURBAN REVIEW CONFERENCE - THE GENEVA PERSPECTIVE

REF: GENEVA 6

Classified By: Charge d'Affaires Mark C. Storella, reasons 1.4 (b) and (d).

¶1. (C) SUMMARY: Numerous delegations over the past months have expressed pessimism that the upcoming Durban Review Conference (April 20-24) will yield anything better than the original Durban Declaration and Program of Action (DDPA). Many like-minded governments are concerned that the outcome could actually be worse and they all agree that the process has not been conducive to a positive outcome. Based on our discussions with Geneva-based diplomats, approximately six countries could withdraw from the process if the new U.S. Administration were to decline to participate and/or the January 19-23 Durban inter-sessional meetings go poorly. Still, many delegations, as well as the UN High Commissioner for Human Rights, continue to encourage the United States to reengage in the process. They do not specify how U.S. involvement could significantly improve the outcome before the Review Conference, though many feel that a strong U.S. presence would stiffen a few backbones in a helpful direction.

¶2. (C) Following the November Inter-Sessional Working Group meetings, the draft compendium document contained over 600 paragraphs, multiple negative references to Israel, points on defamation of religion, and calls for compensation for slavery - redlines for a number of western delegations. Russia, as a voluntary facilitator, produced a subsequent shorter draft document of some 38 pages (sent via email to the Department); however, the revised draft retains many unacceptable elements on the Middle East, racial discrimination through counterterrorism measures, reparations for the slave trade, and the need for an international framework to address so-called defamation of religions. There is a chance that those redline elements will be negotiated back to language consistent with the DDPA. After the January session, however, the final opportunity to negotiate changes to the draft outcome document will occur during the final intersessional meeting April 6-9. Given the slow pace of discussions to date and the inept leadership by the Libyan chair, it remains to be seen if the January or April talks will yield positive results. End summary.

Some "Friendlies" Consider Withdrawing

13. (C) After conversations with a wide range of delegations in Geneva, we have been hard pressed to find many that believe the Durban Review process is proceeding well. Most delegates are as frustrated with the process as they are with the substance. Procedurally, diplomats from nearly every corner of the globe tell us the Libyan chair has been ineffective and unable to move the process forward. Substantively, the discussions and proposals for the draft outcome document have crossed too many redlines. Politicized references to Israel, defamation of religion, compensation for slavery, and counter-terrorism are but a few of the EU redlines, while the African Group (AG) and the Organization of the Islamic Conference (OIC) object to the inclusion of language condemning discrimination on the basis of sexual orientation.

14. (C) The UK, the Netherlands, and Denmark have told us privately that they are serious about the possibility of withdrawing from the process leading up to the Review Conference. British and Dutch diplomats have specifically told us that their capitals, wishing to pull out of the Review Conference, want to first see what the new U.S. Administration does or if there is any real improvement in substance before they make their decisions. Australia, only passively observing at this point, is also keeping a close eye on the United States. According to a few EU-member delegations, several other EU countries, including Poland, the Baltic States, and Slovakia, could potentially withdraw if their European partners pulled out and they felt there was no hope of salvaging the process. The Europeans have emphasized, however, that no one in the EU would consider walking out until after the January 19-23 inter-sessional working group meeting and that all in the EU intend to try their level best to steer the Durban process at least until then. In the words of a Danish diplomat, the January meeting would be something of a make-or-break point. If clear improvements are not apparent by then, they will consider it too late for the Review Conference to get back on track.

Others Firmly "In" and Want the U.S. Back

15. (C) The Czechs have told us that as the EU presidency, they are almost certain not to support a walkout, since they have a special obligation to the EU to work through the process as long as possible to avoid letting the Durban process cross EU redlines. Many other EU members feel the same; they support Durban or at a minimum, they don't want to be seen as dismissive of racism issues or the African states' strong feelings on the topic.

16. (C) The French Ambassador encouraged the U.S. to re-engage because a U.S. presence, he argued, would provide a better balance of ideas in the debate. UN High Commissioner for Human Rights Navi Pillay made similar arguments in her letter to President-Elect Obama (reftel). The proponents of U.S. engagement, however, have not provided specific suggestions as to how the United States could influence the debate, especially given the tight calendar of meetings and the rancor of the discussions to date. Both the Durban pessimists and proponents seem to agree that the best the United States could achieve is an outcome that is no better or worse than the original Durban Declaration and Program of Action.

Where Are the Africans and OIC Headed?

17. (C) Some interlocutors speculated that the Africans and OIC might withdraw references to defamation or other sensitive issues in the Durban product to avoid a walkout by EU members. Alternatively, they believe that if the OIC pushes too hard on religious defamation, the AG could split away from the OIC for fear of the overall issue of racism becoming secondary to the heated debate on freedom of expression and religious defamation. Whether or not the AG and the OIC back down, most western delegations here believe the two groups, led largely by Egypt and Pakistan, will go

back on the offensive (on religious defamation and incitement to religious hatred) once Durban is over.

¶8. (C) For their part, the African and OIC states are keeping their cards close to their chest and sticking with their common positions. Egypt has reportedly kept a tight lid on the African Group. More helpful African states like Kenya and Ghana have shown themselves too attached to the ideal of the Durban discussion to fight against incursions of distracting rhetoric from their allies in Northern Africa and the OIC.

¶9. (C) The Algerian ambassador's blithe introduction, in other Durban-related fora, of language that might form an optional protocol to the International Convention on the Elimination of All Forms of Racial Discrimination (OPCERD) incorporating the concept of religious defamation indicates that the push to include this problematic concept in the racism rubric will not end with the Durban Review Conference.

Certain in the EU are already beginning to fret about whether their lack of counter-initiatives and clear redline counter-arguments against such new instruments may be portrayed as complicity with this harmful initiative.

The Infamous Draft Outcome Document

¶10. (C) The current compendium document, as revised by Russian PolCouns Yuriy Boychenko (with unpublicized but significant editing assistance provided by the OHCHR), shortened the document from over 600 to 250 paragraphs. Although several West Europeans believe Boychenko has made a good-faith effort to avoid an overly objectionable final product, the revised compendium nonetheless retains unacceptable language on the Middle East, racial discrimination through counterterrorism measures, reparations for the slave trade, and the need for an international framework to address the so-called defamation of religions and religious figures (of which only one paragraph broadens the discussion to religions other than Islam).

Comment

¶11. (C) Although views about Durban participation, including the question of U.S. engagement, are mixed, there is general uniformity of opinion among diplomats in Geneva that the outcome will be no better -- and may be worse -- than the 2001 Durban Declaration and Program of Action. The calendar leaves very few days to significantly improve the draft outcome document and the process has been both rancorous and terribly inefficient. There are also complicating factors such as the ongoing debates on religious defamation and on international standards on racism, which occur in multiple fora and on which there is no agreement between the OIC and the AG on one hand and the western states on the other. That said, the possibility for compromise on the draft outcome text for Durban exists. The High Commissioner for Human Rights has committed to become more engaged and most states generally seek consensus on such major texts. The January session could presage the final outcome, while any decision by the USG to engage or not could tip the fence sitters who are considering joining Canada and Israel on the sidelines. End comment.

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